

Remarks

Claims 1-34 are currently pending. No new claims have been added. No new matter has been included. Applicants assert that all claims are now in condition for allowance as set forth more fully below.

Interview Summary

The undersigned participated in an informal telephone interview with the Examiner on April 8, 2005. During the interview, it was discussed that Elston is not prior art and that the provisionals to which it claimed priority under 35 USC 120 failed to disclose the subject matter recited in the claims. The Examiner concurred.

102 Rejections

Claims 1-34 stand rejected under 35 USC §102(e) as being anticipated by Elston (Patent Application 2002/0143655). Applicants respectfully traverse these rejections. The Elston patent has a filing date of February 26, 2002 which does not antedate the filing date of the present application (December 17, 2001). As such, Elston is not anticipating prior art under 35 USC §102(e) unless the disclosure relied upon in the rejections is supported by a claim of priority.

Elston claims priority to Provisional Applications 60/280,105 (filed April 2, 2001) and 60/281,287 (filed April 3, 2001) under 35 USC §120. Although both provisionals antedate the filing date of the present application, the subject matter contained in those provisionals does not teach the subject matter recited in independent claims 1, 6, 13 and 22. For example, the provisionals do not teach that the remote order comprises information associated by the receiver with a make and model of vehicle from which the order is transmitted, and wherein an employee of the business delivers the order to the vehicle by recognizing that the vehicle matches the make and model of the vehicle from which the order was placed. As such, neither provisional application reference is anticipating prior art and can not be used by Elston for a claim of priority under 35 USC §120 for subject matter they do not disclose. Therefore independent claims 1, 6, 13, and 22 are allowable over Elston.

Dependent claims 2-5, 7-12, 14-21 and 23-34 depend from allowable claims 1, 6, 13 and 22 and are also allowable for at least the same reasons.

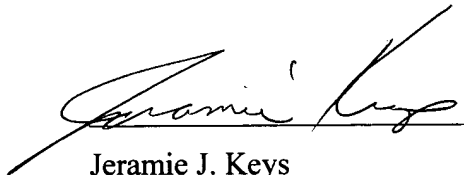
Conclusion

Claims 1-34 are pending. No claims have been amended. No new subject matter has been added. Applicants request that the 35 USC 102(e) rejection be withdrawn based on the remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

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